

Before the  
**Federal Communications Commission**  
Washington DC 20554

In the Matter of	)	
	)	
Reallocation of the 216-220 MHz,	)	ET Docket No. 00-221
1390-1369 MHz, 1427-1429 MHz	)	RM-9267
1429-1432 MHz, 1432-1435 MHz,	)	RM-9692
1670-1675 MHz, and 2385-2390 MHz	)	RM-9797
Government Transfer Bands	)	RM-9854

**Reply Comments of AeroAstro, Inc.**

April 9, 2001

Mitchell Lazarus  
FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17th Street, 11th Floor  
Arlington, VA 22209  
703-812-0440  
Counsel for AeroAstro, Inc.

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**Reply Comments of AeroAstro, Inc.**

AeroAstro, Inc. hereby files these Reply Comments in the above-captioned proceeding.<sup>1</sup>

This filing responds solely to the views of MicroTrax filed in this docket on March 8, 2001, insofar as they concern the proposed reallocation of 1670-1675MHz.

**THE 1670-1675MHz BAND SHOULD BE AUCTIONED FOR ANY  
COMMERCIAL SERVICE.**

AeroAstro endorses the Commission's proposal to reallocate 1670-1675MHz to the fixed and mobile services.<sup>2</sup> AeroAstro has recommended that the Commission adopt a minimum of service rules, so as to promote flexible use of the spectrum, and hence maximize its value to the public. Licensees should be permitted to offer any non-interfering service, commercial or private, fixed or mobile (except airborne and space-to-earth).<sup>3</sup>

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<sup>1</sup> *Reallocation of the 216-220 MHz, 1390-1369 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands*, 15 FCC Rcd 22657 (Notice). See also Comments of AeroAstro, Inc. (filed March 8, 2001).

<sup>2</sup> Notice at para. 42.

<sup>3</sup> AeroAstro urges that licensees be permitted to channelize and pair the band (or not) as they choose. The band should be auctioned on a nationwide basis, with the licensee free to assign or lease subdivided portions of the geography or bandwidth. The Commission should refrain from imposing aggregation limits or build-out requirements. AeroAstro supports technical rules calculated to protect the sensitive adjacent-band operations at 1660.5-1670MHz. For details, see Comments of AeroAstro, Inc.

MicroTrax disagrees. MicroTrax argues that an open auction would result in use of the spectrum for "inferior applications," due to the auction's failure to recognize "substantial externalities."<sup>4</sup> MicroTrax asks the Commission to alleviate that risk by imposing service rules tailored to MicroTrax's proposed Personal Location and Monitoring Service (PLMS). According to MicroTrax, PLMS creates external benefits by improving law enforcement, finding lost children, tracking patients with Alzheimer's disease, and locating valuable objects.<sup>5</sup> Just as the Commission sets aside spectrum for national security, public safety, emergency services, and air traffic control,<sup>6</sup> says MicroTrax, its PLMS service should receive spectrum by administrative fiat, without having to compete with other services at auction.

MicroTrax misses an important distinction. All of its examples -- national security, public safety, emergency services, air traffic control -- use spectrum devoted exclusively to non-commercial, government-operated services whose sole purpose is personal and collective safety. Society long ago decided that these services are important enough to be made equally available to all, without the charging the particular individuals who benefit. The accident victim does not pay for radio calls to and from the ambulance that carries him to the hospital; airline passengers are not billed separately each time their pilot talks with a controller. Instead, we pay for those services collectively, through taxes or user fees. Emergency and safety services do not compete with commercial providers. The spectrum they use is excluded from auction because it does not generate any revenue.

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<sup>4</sup> Comments of MicroTrax at 13 (filed March 8, 2001).

<sup>5</sup> Comments of MicroTrax at 15.

<sup>6</sup> Comments of MicroTrax at 14.

MicroTrax appears to think public safety spectrum is excluded from auction in order to make sure it remains available for public safety communications. But spectrum can easily be auctioned, yet still be reserved for critical use. One can imagine an arrangement in which a homeowner is billed for radio communications among the firefighting vehicles en route to his burning house. Adequate spectrum for this purpose can be obtained at auction, and protected against competing uses, simply by setting the charges to the homeowner high enough.

MicroTrax wants it both ways: MicroTrax wants to charge for its services, yet do so in spectrum protected against competing services. MicroTrax shows every sign of intending to operate as a conventional, for-profit, subscriber service. No doubt MicroTrax will, as it suggests, market its service to, among others, those who care for children and Alzheimer's patients. But MicroTrax has never suggested that its service will operate on a non-revenue basis, or that its offering will be limited solely to public safety and law enforcement. MicroTrax will be free to target commercial and consumer users as well. In such cases, MicroTrax will compete with AeroAstro, and possibly other providers.

The fact that some users may sometimes use PLMS for functions related to public safety does not qualify its spectrum for special treatment. Cellular service does not become a public safety service just because customers sometimes use cell phones to call 911. Like cellular service, PLMS is merely a commercial service that may have occasional public safety applications. Its spectrum should be auctioned like any other.

## **CONCLUSION**

The Commission can promote the best use of the 1670-1675MHz band by imposing no conventional service rules. The possibility that some proposed services may have potential applications related to law enforcement or public safety does not justify rules that would exclude competing offerings.

Respectfully submitted,

Mitchell Lazarus  
FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17th Street, 11th Floor  
Arlington, VA 22209  
703-812-0440  
Counsel for AeroAstro, Inc.

April 9, 2001

## **SERVICE LIST**

Chairman Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Bruce Franca, Acting Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 7C-155  
Washington, D.C. 20554

Julius Knapp, Chief  
Policy & Rules Division  
Office of Engineering and Technology  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 7B-133  
Washington, D.C. 20554

Tom Derenge, Chief  
Spectrum Policy Branch  
Office of Engineering and Technology  
Federal communications Commission  
445 12<sup>th</sup> Street, S.W., Room 7A-140  
Washington, DC 20554

Tom Mooring  
Spectrum Policy Branch  
Office of Engineering and Technology  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 7A-125  
Washington, D.C. 20554

Gregg P. Skall, Esq.  
Pepper & Corazzini, LLP  
1776 K Street, NW, Suite 200  
Washington, DC 20006  
Counsel for MicroTrax